



UNITED STATES PATENT AND TRADEMARK OFFICE

WK

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,933	04/16/2001	Corbett T. Hefner	81.010	9053

7590

07/12/2004

Timothy E. Newholm
BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C.
250 Plaza, Suite 1030
250 East Wisconsin Avenue
Milwaukee, WI 53202

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,933

Applicant(s)

HEFNER, CORBETT T.

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3727

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 12, 2004 has been entered.

Claim Objections

2. Claim 20 is objected to because of the following informalities: in line 8, "-said upper edge" should read -- said upper edge --. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites the limitation "said reinforcing strip" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3727

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Fox et al. (US 6,626,570).

Fox teaches a bag having a first mesh side wall having a reinforcing strip attached thereto and a second resin, film side wall, the reinforcing strip being bonded to the second film wall in a film-to-film relationship at seams 14 and 16.

Regarding the wicket extension, see figure 12.

Claim Rejections - 35 USC § 103

7. Claims 5-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox.

Fox teaches the claimed bag except is silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its intended use. Similarly, it would have a matter of design choice to select a seam strength sufficient to avoid breakage for the desired use of the bag.

8. Claims 15,16,18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox.

Fox teaches the claimed bag except is silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its intended use.

Art Unit: 3727

9. Claims 1-4,20, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel (US 3,554,368) in view of Cammack (US 5,741,076).

Nagel teaches a bag having a resin, mesh side wall and a resin coated second side wall. Nagel does not teach the second side wall is formed of a synthetic resin film material and a reinforcing strip attached to the first mesh side wall.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the second side wall of Nagel of a synthetic resin film material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so allows for storage of more items within the bag.

Cammack teaches it is known to provide a resin mesh side wall with a resin film reinforcing strip and directly bonding the reinforcing strip to the second side wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a reinforcing strip to the mesh side wall of Nagel and directly bonding it to the resin second side wall. Doing so reinforces the opening of the bag.

10. Claims 5-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel in view of Cammack.

Nagel as modified teaches the calimed bag except is silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its intended use. Similarly, it would have a matter of design choice to select a seam strength sufficient to avoid breakage for the desired use of the bag.

Art Unit: 3727

11. Claims 8-10 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Sorenson et al. (US 6,033,112).

Nagel as modified teaches the claimed bag except for wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

Sorenson teaches it is known to provide wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag. Doing so allows for easy filling of the bag and removal from the wicket.

12. Claims 15,16,18,19,and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagel in view of Cammack.

Nagel teaches a bag having a resin, mesh side wall and a resin coated second side wall. Nagel does not teach the second side wall is formed of a synthetic resin film material, a reinforcing strip attached to the first mesh side wall, and silent regarding specific dimensions for the height of the seams and overlap extension and the seam strength.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the second side wall of Nagel of a synthetic resin film material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Doing so allows for storage of more items within the bag.

Cammack teaches it is known to provide a resin mesh side wall with a resin film reinforcing strip and directly bonding the reinforcing strip to the second side wall.

Art Unit: 3727

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a reinforcing strip to the mesh side wall of Nagel and directly bonding it to the resin second side wall. Doing so reinforces the opening of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any height dimension as a matter of design choice to optimize the bag size for its intended use. Similarly, it would have a matter of design choice to select a seam strength sufficient to avoid breakage for the desired use of the bag.

13. Claims 17 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 15 above, and further in view of Sorenson.

Nagel as modified teaches the claimed bag except for wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

Sorenson teaches it is known to provide wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply wicket holes and slits in the vicinity thereof on the longer, second side wall of the bag. Doing so allows for easy filling of the bag and removal from the wicket.

Response to Arguments

14. Applicant's arguments with respect to claims 1-20 and 32-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

Art Unit: 3727

16. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

17. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

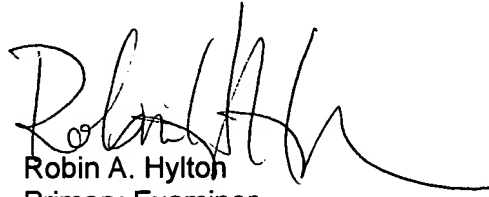
Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Technology Center 3700 Customer Service Office at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
July 8, 2004



Robin A. Hylton
Primary Examiner
GAU 3727